

THE SENIOR COURT COSTS OFFICE

CO11/666

QUEEN'S BENCH DIVISION**BETWEEN:****MARY SHERIDAN****Claimant****-and-****BASILDON BOROUGH COUNCIL****Defendant****POINTS OF DISPUTE**

| No. Item | General | Comments |
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| 1. | <p>By the Order of Mr Justice Edwards-Stuart dated 3 October 2011 the Council have been directed to pay one third of the costs of the Claimants and former Claimants in the action, namely Mary Sheridan, Patrick Egan, Mary Ann McCarthy and Mary Flynn. A claim pursuant to this Order has been made by Mary Sheridan (hereafter, "the Claimant").</p> <p>The proceedings concerned an application for an injunction made on 19 September 2011 in relation to the site known as Dale Farm near Billericay in Essex. The application sought to restrain the Council from taking any steps under section 178 of the Town and Country Planning Act 1990 to remedy breaches of planning control identified in Enforcement Notices. The application was initially heard before Mr Justice Edwards-Stewart on 19 September 2001. There were further hearings on 23 September 2011 and 26 September 2011 and the trial was held on 3 October 2011. The application was dismissed at trial upon the Defendant providing certain undertakings and being required to pay a proportion of the Claimants and former Claimants costs of the action.</p> <p>A claim in the sum of £168,141.37 has made by the Claimant, the details of which are set out in documents entitled Bundles of Assessment which accompanied the Notice of Commencement dated 30 October 2011.</p> <p>Whilst the claim has been formulated as five quantified</p> | |

The "Summary of Mary Sheridan Costs" contained in the Bundle of Assessment entitled "Costs of the First Claimant Mary Sheridan related to the work and costs of herself" informs the Council that her costs related to work carried out by the four contractors of Carta Developers are as follows:

Ms Candy Sheridan – £58,631.00 (inc VAT)

Mr Christopher Elliott – £1,655.28 (inc VAT)

Mr Henry Hardwicke Carruthers - £8,025.00 (inc VAT)

Mr Stuart Hardwicke Carruthers - £100,636.67 (inc VAT)

There are also Bundles of Assessment for each of these individuals breaking down the Claimant's costs for the work they undertook.

The Council would submit that the Claimant cannot recover any costs for the work done by Ms Candy Sheridan, Mr Christopher Elliott, Mr Henry Hardwicke Carruthers, and Mr Stuart Hardwicke Carruthers and as such, no claim can be made for these purported costs. The High Court Order dated 3 October 2011 gives the Claimant the cause to recover her costs of the proceedings and the recovery of the Claimant's costs is therefore within the jurisdiction of the Court.

Accordingly CPR Rule 48.6 on amounts recoverable by a litigant in person applies. Practice Direction 48.6.3 states that "where a person with no legal qualifications gave assistance to a litigant in person the court had no jurisdiction to award costs for the work carried out by the non-legally qualified person." Further, the case of *United Building & Plumbing Contractors v Kajla* [2002] EWCA Civ 628 held that fees paid to a non-legally qualified assistant were not disbursements since they would not have been paid had the litigant been legally represented.

The notes accompanying the Bundles of Assessment for Ms Candy Paul Sheridan, Mr Stuart Hardwicke and Mr Christopher Elliott state unequivocally that they are not legally qualified. It is understood that the same applies to Mr Henry Hardwicke Carruthers although this is not expressly stated in his Bundle of Assessment. Moreover, a solicitor would not have instructed individuals from Carta Developers to assist with this matter or to act as a McKenzie friend, and so the work carried out by contractors of Carta Developers is not a disbursement that a solicitor would have incurred. Therefore according to CPR Rule 48.6.3(a) the Claimant is not entitled to recover the alleged charges for the work of Carta Developers as a disbursement.

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| | <p>claims, in essence there are two claims:</p> <ol style="list-style-type: none"> 1. £192.06 for Attendances and Disbursement of the Claimant; and 2. £167, 949.31 (inc VAT) for the work carried out for the Claimant by four contractors of Carta Developers. | |
| 2. | <p>The following submissions would be made on the claim of £192.06 set out in the Bundle for Assessment entitled "Costs of the First Claimant Mary Sheridan related to the work and costs of herself."</p> <p>The Claimant became a party to the action on 19 September 2011 when she was made Claimant in substitution for Dale Farm Residents Association (an unincorporated association). The Claimant acted in person at the hearing on 19 September 2011 and was assisted by Ms Candy Sheridan from Carta Developers, who acted as a McKenzie Friend. Patrick Egan was made the Second Claimant in the action in substitution for the Claimant at the return date hearing on 23 September 2011. Thus the Claimant is not entitled to recover any costs incurred following 23 September 2011.</p> <p>The Claimant acting in person is limited to the recovery of such reasonable work in order to conduct the case at £9.25 per hour. The Council cannot concede the Attendances of 11 hours with Ms Candy Sheridan between 18 February 2011 and 14 September 2011 (items 1-8 in the costs schedule). No breakdown has been given as to the matters discussed in these telephone conversations and it is considered that these telephone conversations were made prior to the contemplation of an injunction application being brought by the Claimant upon which costs have been ordered and so are not the Claimant's costs of the action.</p> <p>The Council is also of the view that the 7 hours spent on 19 September 2011 travelling back to Dale Farm and meeting with supporters (item 17 in the costs schedule) is excessive.</p> <p>The Claimant also seeks the sum of £167,949.31 for her costs related to work carried out by four contractors of Carta Developers. Carta Developers is described in the notes attached to each Bundle of Assessment as 'an association of individual contractors who realise projects in the Common Good, and work through Carta Developers'. The notes further state that where necessary they engage additional contractors. In this case they engaged Ms Candy Sheridan, who acted as McKenzie Friend to the Claimant.</p> | |
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Dated the 18th day of November 2011

Signed*L. Baine*.....

Solicitor to Basildon Council

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